

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

THE COLEMAN COMPANY, INC.,

Plaintiff/Counterclaim Defendant,

v.

TEAM WORLDWIDE CORPORATION,

Defendant/Counterclaim Plaintiff,

and

CHENG-CHUNG WANG,

Counterclaim Plaintiff.

C.A. No: 2:20-cv-351-RGD

OBJECTIONS/COMMENTARY REGARDING BIFURCATION PROPOSAL

Pursuant to the Court’s Order at ECF No. 233, Plaintiff/Counterclaim Defendant The Coleman Company (“Coleman”) submits the following objections and commentary regarding potential bifurcation of the present trial, which is set to be held on July 19, 2022.

Coleman OPPOSES bifurcation of this trial for the following reasons:

Coleman submits that bifurcation would create unnecessary time and expense for the parties and the Court. It appears that each party will present three to four live witnesses at trial (including financial expert witnesses), with designated deposition testimony comprising the balance of evidentiary presentations. A non-bifurcated trial on all issues could presumably be accomplished within five (5) to six (6) days. In contrast, bifurcation would extend the trial by multiple days, including additional time necessary for two independent deliberations by the jury. Additionally, two separate jury instructions would need to be negotiated and vetted for each phase of the trial—creating additional hurdles for the Court and parties in a bifurcated setting. Coleman

accordingly submits that that the added time and expense of a bifurcated trial is not warranted or necessary for this case, which involves straight-forward issues of patent infringement, validity, and damages.

Coleman further submits that bifurcation would create unnecessary duplication of evidence. If bifurcated, monetary issues would still be addressed by the parties in their case-in-chief, at least with respect to allegations of commercial success. Thus, bifurcation of trial would not significantly reduce the issues for the jury, but rather create the possibility that evidence regarding financial issues would be presented multiple times, once during the liability phase and once during the damages phase.

Coleman further submits that bifurcation could cause jury confusion. The jury would understand from the liability phase that the trial involves assertions of patent infringement. Despite this, if bifurcated, the jury would not be asked during the liability phase to assign a value to the alleged harm caused by the parties' actions. This creates a disconnect for the jury, allowing for jurors to view their role at the liability phase as minimized or as having no potential effect on the outcome of the case.

Finally, Coleman submits that bifurcation is not necessary in view of the nature of the disputed issues. As the Court is aware, there are only two patents involved in this case, with issues of validity, infringement, and damages potentially to be decided by the jury. Such cases are typically tried to a jury in a single proceeding (without bifurcation), and any complexity is adequately dealt with through typical jury instructions outlining the jury's role, law, and issues to be decided.

In view of the above, Coleman submits that it opposes bifurcation of this case for trial in view of the added expense, duplication of issues, and potential juror confusion outlined above. Coleman stands ready to provide additional information on this topic at the Court's request.

Dated: February 18, 2022.

Respectfully submitted,

/s/ David B. Lacy

David B. Lacy (VSB 71177)
Michael W. Smith (VSB 01125)
R. Braxton Hill, IV (VSB 41539)
CHRISTIAN & BARTON LLP
901 East Cary Street, Suite 1800
Richmond, Virginia 23219
Tel.: (804) 697-4100
Fax: (804) 697-4112
dlacy@cblaw.com
msmith@cblaw.com
bhill@cblaw.com

John W. Harbin (pro hac vice)
David S. Moreland (pro hac vice)
Gregory S. Carlin (pro hac vice)
Warren J. Thomas (pro hac vice)
Steven M. Philbin (pro hac vice)
Meunier Carlin & Curfman LLC
999 Peachtree Street NE, Suite 1300
Atlanta, Georgia 30309
(404) 645-7700
jharbin@mcciplaw.com
dmoreland@mcciplaw.com
gcarlin@mcciplaw.com
wthomas@mcciplaw.com
sphilbin@mcciplaw.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

/s/ David B. Lacy

David B. Lacy (VSB No. 71177)

dlacy@cblaw.com

CHRISTIAN & BARTON, L.L.P.
901 East Cary Street, Suite 1800
Richmond, Virginia 23219
Tel.: (804) 697-4100
Fax: (804) 697-4112

#2817427